

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Amended Pre-publication of Notice Statement)

Add Section 125
Title 14, California Code of Regulations
Re: Commercial Take of Rock Crab

- I. Date of Initial Statement of Reasons: July 30, 2003
- II. Date of Pre-Adoption Statement of Reasons: December 8, 2003
- III. Date of Amended Initial Statement of Reasons: February 2, 2004
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: October 3, 2003
Location: Redding, California
 - (b) Discussion Hearings: Date: December 5, 2003
Location: Sacramento, California

Date: February 6, 2004
Location: Long Beach, California
 - (c) Adoption Hearing: Date: May 4, 2004
Location: San Diego, California
- V. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

State Law (Section 8282 (c), Fish and Game Code) delegates to the Fish and Game Commission (Commission) the authority to regulate the commercial harvest of rock crab.

The commercial rock crab fishery is one of the last remaining open access fisheries in California. At present, any individual who purchases a \$35 general trap permit and a commercial fishing license may participate in the fishery. Representatives of the southern California rock crab trap fishing industry have

recommended to the Commission that a limited entry (i.e. restricted access) permit fishery be created in order to protect the rock crab fishery from the impacts of its status as one of the last open access fisheries on the west coast.

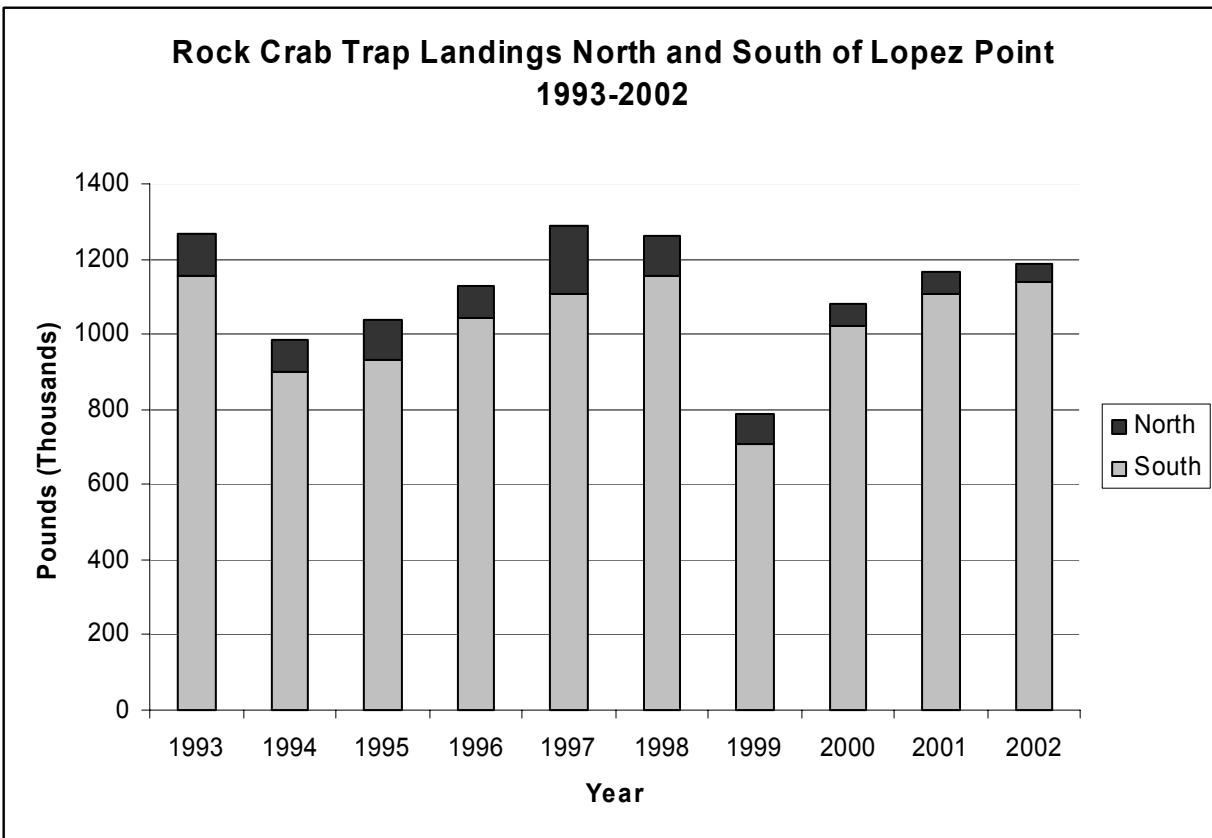
The proposed regulatory action creates northern and southern regional rock crab trap permits. It would establish eligibility requirements for obtaining a northern or southern rock crab trap permit, and the permit renewal process. Possession of a valid 2005-2006 Nearshore Fishery Permit and trap endorsement or minimum landing requirements and a permit moratorium are proposed options for the southern region. Establishment of a control date is also proposed for the southern rock crab trap permit to provide for limits on future participation if necessary. The proposed northern rock crab trap permit would be a non-restrictive permit with no minimum landing requirements. A fee is proposed for each annual permit. Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab. This proposed regulatory action would also prohibit the use of timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as “pop-ups,” on buoy lines attached to rock crab traps.

Rock crabs are fished along the entire California coast. The catch is made up of three species: the yellow rock crab (*Cancer anthonyi*), the brown rock crab (*C. antennarius*), and the red rock crab (*C. productus*). What percentage of the catch each species comprises is unknown. The commercial fishery is most active in southern California from Morro Bay south to the Mexican border where 85 to 90 percent of the landings occur. The northern area from Monterey to the Oregon border, where the Dungeness crab trap fishery predominates, is of lesser importance.

The Department began to document landing data for this fishery in 1950 when a separate reporting category for commercial rock crab landings was established. Since then, landings have risen from 20,000 pounds per year to over 2 million pounds in 1986. Rock crab landings for 2002 were 1.2 million pounds and have averaged 1.1 million pounds per year since 1993. South of Monterey, commercial crabbing has expanded from areas around major ports such as San Diego, San Pedro, Santa Barbara, and Morro Bay to more distant mainland areas and the Channel Islands. From Monterey to the Oregon border, rock crab trapping occurs primarily in 50 fathoms or less with crabbing in the Eureka area occurring almost exclusively in Humboldt Bay.

A regional management strategy is proposed because of the vast differences in effort and landings in the rock crab fishery between southern California and the fishery in central and northern California. A substantial drop in annual rock crab landings occurs north of the Morro Bay port area. The Morro Bay port area averaged 120,953 pounds per year between 1998

and 2002 compared to the 9,990 pound annual average landed in the port of Monterey for the same period. Additionally, effort is consistently lower in north-central and northern California with ports from Monterey north having only 11 fishermen landing 1,000 pounds or greater in 2002 while to the south 71 fishermen were in this category. Because the percentage of landings in the northern area has not changed over time and the volume is low either due to lower resource abundance, lack of markets or competition with the Dungeness fishery, a non-restrictive permit for this area seems warranted (see chart below).



Lopez Point (Monterey County) was chosen as the north/south boundary for this fishery because of its approximate equidistant location between the ports of Morro Bay and Monterey (approximately fifty nautical miles to each port). A review of Department fishing block data from commercial rock crab landing receipts for both ports showed that this area of coastline between the two ports was seldom fished by vessels from either port. Lopez Point is a distinctive landmark that is a well known to fisherman.

Southern Rock Crab Trap Permit

The proposed regulations are needed to ensure a sustainable rock crab trap fishery in California. The Department and members of the southern California rock crab trap fishing industry are concerned that further expansion of the rock crab trap fishery could result in overcapitalization of the fishery. Whenever multiple species are harvested in a single fishery in unknown quantities there is danger of serial depletion. That is, one species may be harvested at levels that are not sustainable, but the annual harvest remains stable or even increases, masking the decline of the individual species

Rock crab landings in the Santa Barbara port area have been increasing yearly since 1999 and reached a ten-year high of 764,000 pounds in 2002. Both the Los Angeles and San Diego port areas had above five-year average landings in 2002 with 94,000 and 165,000 pounds landed in each port, respectively. According to Department commercial landing data, close to 136 individuals landed rock crab in 2002 from Morro Bay south. Seventy-one of these fishermen landed 1,000 pounds or more of rock crab. There is growing concern that the fishery has reached its capacity in southern port areas. With reduced quotas and seasons and the further development of restrictive access in the groundfish **and other** fisheries, the proposed regulations are needed to prevent overcapitalization of the remaining open access fishery.

Initial Permit Issuance

The Department is proposing that a **southern** rock crab trap permit may be issued to any licensed commercial fisherman **who possesses a valid 2005-2006 Nearshore Fishery Permit and trap endorsement, or** who has a general trap permit and who has landed **south of Lopez Point (Monterey County)** a minimum of [0 - 2,000 pounds] of rock crab utilizing trap gear [during any one calendar year from year **(1990–1998)** through **(2002–2003)**] or [between January 1, **(1990–1998)**, and December 31, **(2002–2003)**] as documented by Department landing receipts submitted in an individual's name and commercial fishing license identification number with trap gear identified.

Analysis of commercial rock crab trap landings data was undertaken by the Department to determine the total number of individuals actively participating in this fishery and to identify their level of effort. The goal of the Department is not to reduce the number of individuals actively participating in the fishery in recent years, but to keep effort at or near that number. Both Department and fishery representatives agree that the period 1998-2002 was a reasonable definition of "recent" effort; **however, due to comments received from individuals wanting a longer qualification period, the Department is giving the Commission a range of years to consider.**

The range of [0-2,000] pounds over the **multi-year** window period [or in a single calendar year] was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period.

The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data. However, it is important to recognize that these numbers reflect the maximum number of individuals who may wish to purchase a permit. Other factors, such as attrition, retirement, or the permit fee may deter some of these anticipated qualifiers from actually purchasing a permit.

The updated tables below reflect catch information only in southern port areas and include only landings where trap was recorded as the gear used. The summary tables presented in the July 30, 2003 Initial Statement of Reasons included all landings throughout the state, and thus no longer accurately reflect the number of anticipated qualifiers under the proposed regional program.

**Rock Crab Commercial Catches Over the 1998-2002 Window Period
from Morro Bay South**

Five-Year Total Catch	Number of Individuals
2,000 pounds or more	126
1,000 pounds or more	141
750 pounds or more	148
500 pounds or more	172
250 pounds or more	207
200 pounds or more	221
100 pounds or more	251
50 pounds or more	278
1 pound or more	329

**Rock Crab Commercial Catches in a Single Year
During 1998-2002 Window Period
from Morro Bay South**

Single-Year Catch	Number of Individuals
2,000 pounds or more	130
1,000 pounds or more	153
750 pounds or more	163
500 pounds or more	183
250 pounds or more	216
200 pounds or more	227
100 pounds or more	254
50 pounds or more	280
1 pound or more	329

There is no log book requirement for this fishery, and no survey work has been done to determine the biomass of the three rock crab species harvested in the fishery. Therefore, it is not possible to determine, from a biological standpoint, what an ideal fleet size might be. A first step in gathering data on the fishery is to require a specific permit to target rock crabs, and to not allow further capitalization until baseline data is available.

Members of the commercial sheephead trap fishery have expressed to the Department that rock crab incidentally caught in finfish traps has become an important source for bait for this fishery. There are currently no regulations that require sheephead trappers to record the total pounds of rock crab used for bait each day. However, fishery representatives have communicated to the Department that the number of pounds used each fishing trip ranges from approximately 100 to 300 pounds depending on the size of vessel used and the number of days fished. Based on this information, the Department believes a significant amount of rock crabs are taken by participants in this fishery, and that they should be included in the southern rock crab permit program.

The Department recognizes that sheephead trappers frequently utilize rock crab for bait in fish traps. These individuals catch the crab in crab traps, yet do not land these rock crab commercially since they are then utilized for bait. In order to allow fish trappers to continue possessing rock crab aboard their vessels for this purpose, the Department is proposing that these individuals be required to hold the rock crab permit. In order that they be eligible to purchase the permit, the proposed regulations would authorize those individuals that hold a nearshore fishery permit and a nearshore trap endorsement to be eligible to purchase a rock crab trap permit regardless of whether they met any prior landings requirement.

The Department is proposing an annual fee for the **southern rock crab trap permit of [\$50 to \$250] and annual fee for the northern rock crab trap permit of [\$50 to \$250]**. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, the proposed permit program is anticipated to cost approximately \$50,000-80,000 for permit administration; the cost-equivalent of one to 1.5 administrative staff members, \$30,000 - \$60,000 for enforcement of the permit requirement (the cost-equivalent of one-half to one full-time enforcement agent) and \$30,000 - \$200,000 (the cost-equivalent of one-half to three full-time biological staff) for biological and managerial needs including monitoring landings, policy review and oversight, and initial development of data sources and analysis which may be used for future assessment and restricted access programs. Therefore, annual costs of the program may be estimated **to be at least \$140,000 (including overhead and benefits)**.

Rock crab landing taxes only generate approximately \$2,100 a year; which is not adequate to fund the permit program. Assuming the Commission selects a landing requirement for the **southern rock crab trap permit** of at least one pound over the window period (**329** participants) to 2,000 pounds in a single year (**126** participants), a permit fee at the low range proposed (\$50) would generate between **\$6,300** and **\$16,450** annually. At the highest cost within the range proposed (\$250), revenue generated would be between **\$31,500** and **\$82,250** annually, depending on the initial issuance criteria selected. **Assuming all 118 individuals that landed rock crab using trap gear north of Lopez Point between 1998 and 2002 purchased a northern rock crab trap permit, a range of \$5,900 to \$29,500 of additional revenue would be generated for the Department with the proposed fee range for this permit of \$50 to \$250 under consideration by the Commission.**

The proposed regulations require applicants to submit a commercial southern rock crab trap permit application form DFG 1324 along with the required fee. Under the proposed regulations, applications for initial issuance of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received October 1 through October 31, 2005 shall be considered late and will be assessed a \$50 late fee. Applications received after October 31, 2005 will not be considered. Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year. Under the proposed regulations, applications for renewal of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before April 30 of each year.

Applications for permit renewal of a southern rock crab trap permit received May 1 through May 31 shall be considered late and will be assessed a \$50 late fee. Applications received after May 31 shall not be considered, and the permit shall be cancelled and shall no longer be eligible for renewal in subsequent years. The proposed southern rock crab trap permit shall be revoked: a) if the person fails to renew the permit annually or renew his or her commercial fishing license issued pursuant to Fish and Game Code Section 7852; or b) for violation of any fish and game regulation pertaining to the take of rock crabs or violation of the terms or conditions of the permit.

The proposed regulations would provide that any applicant who is denied initial Issuance or renewal of a southern rock crab trap permit may appeal that denial to the Department in writing describing the basis for the appeal. If the Department denies the appeal, an appeal may be made to the Commission.

A control date announces to all current and potential fishery participants that at a future date a restricted access program will be considered for this fishery. It provides an equitable tool to gauge participation when a program is implemented and a qualification period is needed. A wide range of control date options [January 1, 2000 – March 31, 2003] was provided **for the southern rock crab trap permit** by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery. At that time, the Commission did not have authority over the rock crab fishery, and the fishermen were told a legislative action would be required for that transfer of authority. FGC Section 8282(c) went in effect on January 1, 2003 giving the Commission regulatory authority over the rock crab resource.

Northern Rock Crab Trap Permit

The proposed regulations are needed to ensure a sustainable rock crab trap fishery in central and northern California and to allow for the appropriate management of any future expansion of rock crab trap fishing effort. Although the present level of commercial rock crab trap landings (see table below) from Monterey north does not justify establishing a permit moratorium program or control date for this fishery at this time, a change in market conditions could greatly increase effort in northern ports. Any increase in the number of commercial fishermen targeting rock crabs can be more accurately tracked with a permit program in place allowing the Department to better monitor the harvest of this important marine resource.

California Commercial Rock Crab Trap Landings (pounds) by Port Area for the Years 1993-2002												
	Year										Avg. Lbs.	Avg. Lbs.
Port Area	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993-2002	1998-2002
Eureka	45,505	12,336	16,020	9,681	12,193	7,531	10,524	8,124	9,143	12,285	14,334	9,521
Fort Bragg	0	2,959	196	0	0	0	0	829	303	1,443	1,146	858
Bodega Bay	96	120	16,430	9,193	93,509	9,148	3,537	50	7,559	3,975	14,362	4,854
San Francisco	57,060	56,936	50,648	51,747	60,314	72,558	46,643	40,174	38,299	29,213	50,359	45,378
Monterey	9,528	13,484	24,295	14,973	14,266	18,436	19,633	8,691	2,893	295	12,649	9,990
Morro Bay	369,417	301,714	245,826	218,174	173,377	217,009	92,506	75,472	100,945	118,831	191,327	120,953
Santa Barbara	554,898	470,610	505,130	550,494	692,068	753,389	504,687	595,138	656,849	763,522	604,679	654,717
Los Angeles	153,988	65,856	77,144	135,749	120,753	104,236	46,850	84,899	128,194	93,897	101,157	91,615
San Diego	76,867	60,379	104,609	139,185	122,761	81,546	62,258	268,219	223,822	164,845	130,449	160,138
Grand Total	1,267,360	984,393	1,040,298	1,129,196	1,289,241	1,263,852	786,639	1,081,596	1,168,008	1,188,306	1,119,889	1,097,680

Initial Permit Issuance

The Department is proposing that a northern rock crab trap permit be issued to any licensed commercial fisherman who has a valid general trap permit that has not been suspended or revoked. The proposed northern rock crab trap permit would be a non-restrictive permit with no minimum landing requirements. Other licensed fishermen assisting in the take of rock crab using traps would still need a commercial fishing license and a general trap permit. The northern rock crab trap permit would be renewed annually by submitting application form DFG 1375 and the annual fee for the northern rock crab trap permit of \$50 to \$250.

Regulations Prohibiting the Use of Pop-Up Devices

Department enforcement staff has identified a need to prohibit the use of timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," in the rock crab fishery. Proposed regulations would prohibit pop-ups on any buoy line attached to rock crab traps, and the devices could not be possessed by any commercial rock crab trap permittee on any vessel while taking or attempting to take rock crab. When in use, pop-ups serve to make a trap buoy undetectable on the surface of the water for a certain period of time, and therefore, the trap is not detectable until the pop-up releases the buoy.

At this time, the Department believes that pop-ups are not frequently utilized by rock crab fishermen, however, preventing the practice from becoming commonplace will aid in enforcement efforts. There are numerous statutes and regulations which define crab trap construction requirements and trap destruction devices, which will be imposed as conditions of rock crab trap fishery permits. Moreover, there are many areas which are closed to trap fishing activity. If the trap buoys are not detectable to enforcement staff from the surface of the water, there is no

reasonable way that the traps can be inspected by patrol vessels to ensure that trap construction requirements or other fishing statutes or regulations are being adhered to.

Exemption from the Rock Crab Trap Permit Requirements

The Department has identified permitted fisheries which are allowed by statute to possess rock crabs that are landed incidentally with targeted species. Although the Department is unable to estimate from commercial landing data what percentage of the total rock crab landings are from incidental catch from gear other than rock crab traps (with the exception of trawl gear) this percentage is thought to be low. Representatives from the lobster fishery have expressed their concerns that this proposal would prohibit the possession of rock crab incidentally caught in lobster traps to those fishermen not possessing a southern rock crab permit. It is not the intent of the Department to prohibit, with this proposed regulation, a longstanding fishing practice that has included the use of incidentally caught rock crab for commercial purposes. For this reason, the Department is proposing that fishermen holding lobster permits taking rock crab incidentally during the lobster fishing season specified and in lobster trap gear, be exempt from the southern rock crab trap permit

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 1050 and 8282, Fish and Game Code.

Reference: Sections 1050, 8275, 8282, 8284, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9011, and 9012, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None were identified.

- (e) Public Discussions of Proposed Regulations Prior to Notice publication:

The 45-day comment period provides adequate time for review of the proposed regulations.

VI. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

A restricted access program with transferable permits was proposed by a small group of rock crab trap fishermen from southern California and considered by the Department. They proposed a moratorium on new rock crab permits and a 1,000 pound landing requirement during the five years prior to 2003 in order to qualify for a permit. According to Department commercial rock crab trap landing data, approximately **168** individuals would qualify for a statewide rock crab trap permit under this alternative, with the majority of these individuals making landings in the Morro Bay, Santa Barbara, Los Angeles, and San Diego port areas. The Department does not want to develop a restricted access fishery without statewide industry participation and a full analysis of capacity goal and existing data.

(b) No Change Alternative:

If a permit program is not adopted for the rock crab trap fishery and fishing effort increases, then the harvest levels may not be sustainable. Without a restricted access permit program in the southern area, it is likely that fishing effort for rock crab in the southern area will continue to increase. The rock crab trap fishery is one of the few remaining open access fisheries in California, and, as such, will continue to attract new participants. In addition, effort from current participants is likely to increase as other fisheries institute restricted access programs or as quotas and seasons in other fisheries become more restrictive. A change in market conditions could greatly increase effort in northern ports, and a permit program provides the tools for taking appropriate management actions to ensure a sustainable rock crab trap fishery in the northern area.

Not creating **northern and southern permits** for this fishery means the Department must continue to rely on landings to determine the number of actual participants. Landings data alone do not provide accurate information about how many fisherman may be interested in pursuing the fishery full-time or part-time, or which landings of rock crab are incidental landings made while fishing for another target species. A \$35.00 general trap permit is the current requirement to trap rock crab. Although it identifies the gear type the fisherman intends to use, it does not identify the target species. The existing trap permit fee and landing tax do not provide adequate reimbursement for the expenditures required to adequately protect and maintain a marine resource and associated fishery.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

VII. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VIII. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small business. The proposed permit program would cause some fishermen who have participated in the fishery in the past on a limited and sporadic level to lose some potential income if the initial issuance criteria selected requires a level of prior participation that has not been met. As the ex-vessel value of rock crab is \$1.30 to \$2.00 per pound, with prior catch history of 1,000 pounds over the five year window period, a maximum future loss might be estimated at between \$1,300 and \$2,000 per person over a five-year time period if that individual was to repeat the prior performance level and the Commission were to select a minimum catch history of 1,000 pounds for initial permit issuance. It is thought that since these individuals do not derive a significant portion of their income from this fishery, the economic impact would not be significant to those that may not qualify for initial permit issuance.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

(c) Cost Impacts on a Representative Private Person or Business:

Each individual who seeks to purchase a **southern** rock crab trap permit and meets the selected initial issuance criteria may purchase a permit at a cost of [\$50 - \$250]. **The northern permit may be purchased at a cost of [\$50 - \$250].** The permit may be renewed annually at the selected fee level. This funding is needed to offset program costs, including funds needed to implement the initial permit program, track landings, enforce the new regulations, staff appeal hearings, review the program and develop any additional modifications to the program or develop other management strategies that may be needed once the program is implemented. See Section V (a) for additional information.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: **Under the proposed regulations the Department of Fish and Game will collect new permit fees to offset increased costs of administering the Rock Crab Permit program, no fiscal impacts on other State agencies or Programs are anticipated. See Section V(a), for details on implementation and management costs.**

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Updated Informative Digest/Policy Statement Overview

A person must have a commercial fishing license, a general trap permit, and use a vessel that is commercially registered to participate in the commercial rock crab trap fishery. The proposed regulatory action would create a **northern and southern regional** rock crab trap permit requirement beginning April 1, **2005 with the north/south boundary located at Lopez Point (Lat. 36° N), Monterey County**. It also would establish eligibility requirements for obtaining a northern or southern rock crab trap permit, and the permit renewal process. Possession of a valid **2005-2006 Nearshore Fishery Permit and trap endorsement** or minimum landing requirements and a permit moratorium are proposed for the southern region. Establishment of a control date is also proposed for the southern rock crab trap permit to provide for limits on future participation if necessary. The proposed northern rock crab trap permit would be a non-restrictive permit with no minimum landing requirements. Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab. A fee is proposed for each annual permit. Only one individual aboard a vessel trapping rock crab would be required to have the **northern or southern** rock crab trap permit in addition to the individual's general trap permit. Other licensed fishermen assisting in the take of rock crab would still need a commercial fishing license and a general trap permit. The permit application process and appeal and renewal processes are also specified in the proposed regulations.

The proposed regulations provide that, as a condition of the permit, a rock crab trap permittee must abide by all the all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps. Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab is currently required to be marked with a buoy. The proposed regulations would prohibit the use of timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as “pop-ups,” on buoy lines attached to rock crab traps. The proposed regulations would also prohibit the possession of pop-ups on any vessel while taking or attempting to take rock crab under the authority of a northern or southern rock crab trap permit.

The Department is proposing that a **southern** rock crab trap permit may be issued to any licensed commercial fisherman who has a **valid 2005-2006 Nearshore Fishery Permit and trap endorsement**, or a general trap permit, and who has landed **south of Lopez Point (Lat. 36° N), Monterey County**, a minimum number of pounds of rock crab during a specified time period as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number. A range of minimum catch levels and time periods are provided from which the

Commission may select. A minimum of 0 to 2,000 pounds must have been landed in any single calendar year between **(1990–1998)** and **(2002–2003)**, or the participant must have cumulatively landed a minimum of 0 to 2,000 pounds in the **(1990–1998)** through **(2002– 2003)** time period. **Fishermen holding lobster permits taking rock crab incidentally during the lobster fishing season and in lobster trap gear would be exempt from the rock crab trap permit.**

The range of 0-2000 pounds over the multi-year window period or in a single calendar year was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period. The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data.

The updated tables below reflect catch information only in southern port areas and include only landings where trap was recorded as the gear used. The summary tables presented in the July 30, 2003 Initial Statement of Reasons included all landings throughout the state, and thus no longer accurately reflect the number of anticipated qualifiers under the proposed regional program.

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Window Period from Morro Bay South**

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Under the proposed regulations, applications for initial issuance of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received October 1 through October 31, 2005 shall be considered late and will be assessed a \$50 late fee. Applications received after October 31, 2005 will not be considered. Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year. Under the proposed regulations, applications for renewal of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before April 30 of each year. Applications for permit renewal of a southern rock crab trap permit received May 1 through May 31 shall be considered late and will be assessed a \$50 late fee. Applications received after May 31 shall not be considered, and the permit shall be cancelled and shall no longer be eligible for renewal in subsequent years. The proposed southern rock crab trap permit shall be revoked: a) if the person fails to renew the permit annually or renew his or her commercial fishing license issued pursuant to Fish and Game Code Section 7852; or b) for violation of any fish and game regulation pertaining to the take of rock crabs or violation of the terms or conditions of the permit.

The proposed regulations would provide that any applicant who is denied initial Issuance or renewal of a southern rock crab trap permit may appeal that denial to the Department in writing describing the basis for the appeal. If the Department denies the appeal, an appeal may be made to the Commission.

Applicants are required to submit a commercial **southern** rock crab trap permit application form DFG 1324(9/03) along with the required fee. The Department is proposing an annual fee for the **southern** rock crab trap permit of \$50 to \$250.

Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, **the annual costs of the program may be estimated to be at least \$140,000 (including overhead and benefits).**

Control date options from January 1, 2000 through March 31, 2003 were provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery.

The Department is proposing that a northern rock crab trap permit be may be issued to any licensed commercial fisherman who has a valid general trap permit that has not been suspended or revoked. The proposed northern rock crab trap permit would be a non-restrictive permit with no minimum landing requirements. Other licensed fishermen assisting in the take of rock crab using traps would still need a commercial fishing license and a general trap permit. The northern rock crab trap permit would be renewed annually by submitting application form DFG 1375 and the annual fee for the northern rock crab trap permit of \$50 to \$250.